

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

TERRY KILGORE SR., et al.,	:	
	:	NO. 1:05-CV-00256
Plaintiffs,	:	
	:	
	:	OPINION AND ORDER
v.	:	
	:	
	:	
CITY OF CINCINNATI, et al.,	:	
	:	
Defendants.	:	
	:	

This matter is before the Court on the Report and Recommendation in which the assigned Magistrate Judge recommended that Defendants' motion to dismiss be granted (doc. 26). For the reasons indicated herein, the Court ADOPTS the Magistrate Judge's Report and Recommendation in its entirety, GRANTS Defendant's motion to dismiss (doc. 23) and DISMISSES this case from its docket WITHOUT PREJUDICE (doc. 1).

On April 14, 2005, Plaintiffs initiated this pro se action pursuant to 42 U.S.C. § 1983, alleging false arrest, false imprisonment, unreasonable search and seizure, and intentional infliction of emotional distress (doc. 1). On May 23, 2006, Defendants City of Cincinnati, Thomas Streicher, Chris Bihl, Jeff McKinney, and Debbie Mercado filed a motion to dismiss for lack of prosecution (doc. 23). Plaintiffs did not respond. On July 5, 2006, the Magistrate Judge issued an Order directing Plaintiffs to

show cause in writing within fifteen days stating why Defendants' motion should not be granted (doc. 25). Again, Plaintiffs did not respond. Thereafter, on November 14, 2006, the Magistrate Judge issued a Report and Recommendation stating that "as a result of Plaintiffs' failure to respond to Defendants' deposition requests, failure to respond to discovery requests, and failure to respond to the Court's pending Show Cause Order," dismissal was an appropriate sanction in this matter (doc. 26).

On November 20, 2006, Plaintiffs filed a handwritten objection to the Report and Recommendation (doc. 27). Plaintiffs reiterate their belief that their rights were violated by Defendants' actions and state that they no longer have access to legal help (Id.).

Having reviewed this matter, the Court finds the Magistrate Judge's Report and Recommendation correct. Plaintiffs' objections do not address their failure to prosecute this matter, beyond stating that they are not certain how to proceed (Id.). Therefore, in as much as Plaintiffs are pro se, the Court finds it proper to dismiss this case without prejudice. If they wish, Plaintiffs may re-file this action when they have the ability to prosecute it.

Having reviewed this matter de novo pursuant to 28 U.S.C. § 636(b), the Court ADOPTS the Magistrate Judge's Report and Recommendation (doc. 26) in its entirety, and therefore, GRANTS

Defendants' motion to dismiss (doc. 23), and DISMISSES this case from its docket WITHOUT PREJUDICE (doc. 1).

SO ORDERED.

Dated: February 15, 2007

s/S. Arthur Spiegel
S. Arthur Spiegel
United States Senior District Judge